

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

BOBBY JOE SMITH, II,)
Petitioner,)
v.) Case No. CIV 17-443-Raw-Kew
SCOTT CROW,)
Interim DOC Director,)
Respondent.)

OPINION AND ORDER

On September 28, 2018, Petitioner's petition for a writ of habeas corpus pursuant to 2254 was denied as time barred. (Dkt. 16). On October 12, 2018, he filed a letter with the Court, stating the following:

I am dumbfounded and Astonished. I have never been so misconstrued as I have been considering Responses given to me in these two Documents .
...¹

... I truly do not understand our inability to comprehend each other but I do believe you have missed the entire reason and basis of Merit that I have raised as it is not being addressed, dismissal is for reasons other than those raised.

(Dkt. 18 at 1).

The Court has carefully reviewed the record and construes Petitioner's pleadings liberally. *See Haines v. Kerner*, 404 U.S. 519 (1972). It appears Petitioner is complaining

¹ Petitioner's second habeas petition in Case No. CIV 17-445-Raw-Kew also was dismissed on September 28, 2018. He filed an identical letter in that case.

that his habeas case was not decided on the merits of the issues he raised in the petition. The Court finds Petitioner's letter should be construed as a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e).

A Rule 59(e) motion may be granted "to correct manifest errors of law or to present newly discovered evidence." *Phelps v. Hamilton*, 122 F.3d 1309, 1324 (10th Cir. 1997) (internal quotation marks omitted). Relief under Rule 59(e) also is appropriate when "the court has misapprehended the facts, a party's position, or the controlling law." *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). A Rule 59(e) motion, however, is not a new opportunity to revisit issues already addressed or to advance arguments that could have been raised earlier. *See id.*

Plaintiff's motion argues this Court re-characterized the issues of his criminal case, failed to address the errors in his trial, and erroneously dismissed his habeas petition. Apparently believing this Court has misunderstood his case, he requests "an Audience to 'Verbally' explain what has occurred." (Dkt. 18 at 6). After careful review, the Court finds Plaintiff's conclusory arguments do not warrant relief.

ACCORDINGLY, Petitioner's motion to alter or amend the judgment (Dkt. 18) is DENIED.

IT IS SO ORDERED this 3rd day of September 2019.



Ronald A. White
United States District Judge
Eastern District of Oklahoma